

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHRISTINE D. GEOGHEGAN,

Plaintiff,

Case No.: 18-cv-07180

-against-

ROBSCOT REALTY, INC., d/b/a Brody McKay's  
Tavern, PETITE REALTY CORP., and ROBERT  
PETITPAIN,

Defendants.

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Defendants, ROBSCOT REALTY, INC., d/b/a Brody McKay's Tavern, PETITE  
REALTY CORP., and ROBERT PETITPAIN, by their attorneys, The Law Firm of Adam C.  
Weiss, PLLC, hereby answers the Complaint in the above-captioned matter as follows:

**INTRODUCTION**

1. Deny the allegations contained in Paragraph "1" of the Complaint.

**JURISDICTION AND VENUE**

2. Admit the allegations contained in Paragraph "2" of the Complaint.
3. Admit the allegations contained in Paragraph "3" of the Complaint.
4. Admit the allegations contained in Paragraph "4" of the Complaint.

**PARTIES**

5. Defendants are without knowledge or information sufficient to form a belief as to  
the truth of the allegations of Paragraph "5", and the same are therefore denied.
6. Admit the allegations contained in Paragraph "6" of the Complaint.
7. Admit the allegations contained in Paragraph "7" of the Complaint.
8. Admit the allegations contained in Paragraph "8" of the Complaint.

9. Admit the allegations contained in Paragraph “9” of the Complaint.
10. Deny the allegations contained in Paragraph “10” of the Complaint.
11. Deny the allegations contained in Paragraph “11” of the Complaint.
12. Deny the allegations contained in Paragraph “12” of the Complaint.
13. Admit the allegations contained in Paragraph “13” of the Complaint.
14. Admit the allegations contained in Paragraph “14” of the Complaint.
15. Admit the allegations contained in Paragraph “15” of the Complaint.
16. Admit the allegations contained in Paragraph “16” of the Complaint.
17. Admit the allegations contained in Paragraph “17” of the Complaint.
18. Admit the allegations contained in Paragraph “18” of the Complaint.
19. Admit the allegations contained in Paragraph “19” of the Complaint.
20. Admit the allegations contained in Paragraph “20” of the Complaint.
21. Admit the allegations contained in Paragraph “21” of the Complaint.
22. Admit the allegations contained in Paragraph “22” of the Complaint.
23. Admit the allegations contained in Paragraph “23” of the Complaint.
24. Deny the allegations contained in Paragraph “24” of the Complaint.
25. Deny the allegations contained in Paragraph “25” of the Complaint.

#### **FACTUAL ALLEGATIONS**

26. Deny the allegations contained in Paragraph “26” of the Complaint.
27. Deny the allegations contained in Paragraph “27” of the Complaint.
28. Deny the allegations contained in Paragraph “28” of the Complaint.
29. Admit the allegations contained in Paragraph “29” of the Complaint.
30. Deny the allegations contained in Paragraph “30” of the Complaint.

31. Deny the allegations contained in Paragraph “31” of the Complaint.
32. Deny the allegations contained in Paragraph “32” of the Complaint.
33. Deny the allegations contained in Paragraph “33” of the Complaint.
34. Deny the allegations contained in Paragraph “34” of the Complaint.
35. Deny the allegations contained in Paragraph “35” of the Complaint.
36. Deny the allegations contained in Paragraph “36” of the Complaint.
37. Deny the allegations contained in Paragraph “37” of the Complaint.
38. Admit the allegations contained in Paragraph “38” of the Complaint.
39. Admit the allegations contained in Paragraph “39” of the Complaint.
40. Deny the allegations contained in Paragraph “40” of the Complaint.
41. Deny the allegations contained in Paragraph “41” of the Complaint.
42. Deny the allegations contained in Paragraph “42” of the Complaint.
43. Deny the allegations contained in Paragraph “43” of the Complaint.
44. Deny the allegations contained in Paragraph “44” of the Complaint.
45. Deny the allegations contained in Paragraph “45” of the Complaint.
46. Admit the allegations contained in Paragraph “46” of the Complaint.
47. Deny the allegations contained in Paragraph “47” of the Complaint.

**FIRST COUNT**

48. Defendants repeat and reallege each and every response contained in Paragraphs “1” through “47” of this Answer with the same force and effect as if fully set forth at length herein.
49. Deny the allegations contained in Paragraph “49” of the Complaint.
50. Admit the allegations contained in Paragraph “50” of the Complaint.
51. Deny the allegations contained in Paragraph “51” of the Complaint.

52. Deny the allegations contained in Paragraph "52" of the Complaint.
53. Deny the allegations contained in Paragraph "53" of the Complaint.
54. Deny the allegations contained in Paragraph "54" of the Complaint.

**SECOND COUNT**

55. Defendants repeat and reallege each and every response contained in Paragraphs "1" through "54" of this Answer with the same force and effect as if fully set forth at length herein.
56. Deny the allegations contained in Paragraph "56" of the Complaint.
  57. Admit the allegations contained in Paragraph "57" of the Complaint.
  58. Deny the allegations contained in Paragraph "58" of the Complaint.
  59. Deny the allegations contained in Paragraph "59" of the Complaint.
  60. Deny the allegations contained in Paragraph "60" of the Complaint.
  61. Deny the allegations contained in Paragraph "61" of the Complaint.
  62. Deny the allegations contained in Paragraph "62" of the Complaint.

**THIRD COUNT**

63. Defendants repeat and reallege each and every response contained in Paragraphs "1" through "62" of this Answer with the same force and effect as if fully set forth at length herein.
64. Deny the allegations contained in Paragraph "64" of the Complaint.
  65. Deny the allegations contained in Paragraph "65" of the Complaint.
  66. Deny the allegations contained in Paragraph "66" of the Complaint.

**FOURTH COUNT**

67. Defendants repeat and reallege each and every response contained in Paragraphs "1" through "66" of this Answer with the same force and effect as if fully set forth at length herein.
68. Deny the allegations contained in Paragraph "68" of the Complaint.

69. Deny the allegations contained in Paragraph “69” of the Complaint.
70. Deny the allegations contained in Paragraph “70” of the Complaint.
71. Deny the allegations contained in Paragraph “71” of the Complaint.

**FIFTH COUNT**

72. Defendants repeat and reallege each and every response contained in Paragraphs “1” through “71” of this Answer with the same force and effect as if fully set forth at length herein.
73. Admit the allegations contained in Paragraph “73” of the Complaint.
74. Admit the allegations contained in Paragraph “74” of the Complaint.

**SIXTH COUNT**

75. Defendants repeat and reallege each and every response contained in Paragraphs “1” through “74” of this Answer with the same force and effect as if fully set forth at length herein.
76. Admit the allegations contained in Paragraph “76” of the Complaint.
77. Deny the allegations contained in Paragraph “77” of the Complaint.

**AFFIRMATIVE DEFENSES FOR EACH AND EVERY CAUSE OF ACTION**

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

78. The complaint fails to set forth a cause of action upon which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

79. Plaintiff’s claims against Defendants are barred because the Defendants were not Plaintiff’s employer as defined under law.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

80. This action is barred by the doctrine of payment.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

81. Plaintiff, in whole or in part, is exempt from the pay requirements of the laws cited in the complaint.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

82. Defendants are entitled to a set-off with respect to Plaintiff for monies paid for any hours that Plaintiff was not working.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

83. Plaintiff cannot recover liquidated damages under FLSA because, in accordance with 29 U.S.C. §260, Defendants, at all times, acted in good faith and believed that their conduct was not in violation of FLSA.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

84. To the extent that Plaintiff could establish that Defendants are liable under FLSA (and he cannot), Plaintiff's recovery must be limited because Defendants did not act willfully.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

85. Any act or omission on the part of Defendants was in good faith and they had reasonable grounds for believing that such acts or omissions were not in violation of and were in conformity with FLSA, New York Labor Law, written administrative regulations, orders, rulings, approvals or interpretations of the U.S. Department of Labor and, therefore, some or all of the claims in the complaint are barred.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

86. Defendants are entitled to a set-off with respect to Plaintiff for monies paid for any hours that Plaintiff was not working.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

87. Defendants reserve the right to raise additional affirmative defenses and to supplement those asserted herein upon discovery of further information and investigation into the Plaintiff's claims. These additional defenses cannot be articulated at this time due to the Plaintiff's failure to properly describe its claims with sufficient particularity in the complaint.

**WHEREFORE**, Defendants demands judgment dismissing the Complaint, with prejudice, and awarding Defendants' attorneys' fees, costs and disbursements of this action, and such other and further relief as this Honorable Court deems just, equitable and proper.

Dated: Glen Cove, New York  
May 17, 2019

LAW FIRM OF ADAM C. WEISS, PLLC



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